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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,617	06/30/2003	Bryan Y. Roe	42P15965	1380
59796	7590	03/22/2007		
INTEL CORPORATION c/o INTELLEVATE, LLC P.O. BOX 52050 MINNEAPOLIS, MN 55402			EXAMINER VO, TED T	
			ART UNIT	PAPER NUMBER
			2191	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/611,617	ROE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ted T. Vo	2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This action is in response to the communication filed on 06/30/2003.

Claims 1-18 are pending in the application.

### *Specification*

2. This Specification is objected to.

- The use of the trademark, such as UPnP, Java, Windows, Linux, etc., has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

- Respectfully reminding that the specification arrangement should comply with 37 CFR 1.77. In this specification, it should be arranged including with the sections that appear in the arrangement shown as format:

(f) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

**(g) BRIEF SUMMARY OF THE INVENTION.**

It would require amending the specification for fully complying with the requirements.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-18 provide the functionality that modify a trade name Application, UPnP™, and use UPnP™ as the limitation in the claims. According to MPEP 2173.05(u): If the trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of the 35 U.S.C. 112, second paragraph. Ex parte Simpson, 218 USPQ 1020 (Bd. App. 1982).

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-18 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-26 of copending Application No. 10/365,230 (Pub. No. 2004/0158823 A1). This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in Claim 1-18, of this instant application, for example claim 1,

A method, comprising: accessing at least one of device-specific and/or platform information for a device that will implement a Universal Plug and Play (UPnP) control point; and generating custom source code, tailored to the device, to efficiently implement the control point on the device based on at least one of the device-specific information and the platform information.

is recited in the copending application. For example claim 1 of the copending application:

A method for generating a custom Universal Plug and Play ("UPnP") application for a device, comprising: accessing device-specific information for the device; accessing platform information for the device; and generating source code based on at least one of the device-specific information and the platform information.

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The claimed subject matters claimed in this instant application is further identified in **copending Application No. 10/365,230**, independent Claims 1, 7, 13, and 19, and their dependent claims.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 1, 3, 7, 9, 13, 15 are rejected under 35 U.S.C. 102(a) as being anticipated by Microsoft Corporation, "Hosting Devices on Windows XP Using Universal Plug and Play", 5-2002.

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per Claim 1: Microsoft discloses,

*A method, comprising:*

*accessing at least one of device-specific and/or platform information for a device that will implement a*

*Universal Plug and Play (UPnP) control point (See p.1 (Control point API)); and*

*generating custom source code, tailored to the device, to efficiently implement the control point on the*

*device based on at least one of the device-specific information and the platform information (See P. 1,*

*"Introduction". See p. 2, "Implementing the service and Device Control Objects", referring to COM objects, compliant UPnP derives, or device object (Figure in p.4): source code).*

*2. The method according to claim 1 further comprising compiling the source code to generate the UPnP control point.*

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As per Claim 3: Microsoft discloses, *The method according to claim 1 wherein accessing the device-specific information further comprises accessing at least one of a device description and a service description for the device* (See Microsoft Windows XP includes UPnP (*platform information*) through a Control point API, p. 1).

As per Claims 7, 13: The claims are article, and apparatus, that have the limitations address corresponding the functionality of the method Claim 1. See rationale addressed in Claim 1.

As per Claims 9, 15: See rationale addressed in Claim 3.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A person shall be entitled to a patent unless –

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 4-5, 8, 10-11, 14, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Microsoft Corporation, "Hosting Devices on Windows XP Using Universal Plug and Play", in view of Aho et al, "Compilers Principles, Techniques, and Tools", 1998.

Given the broadest reasonable interpretation of followed claims in light of the specification.

Regarding limitations of Claims 2, 4-5, 8, 10-11, 14, 17-18: Microsoft does not explicitly teach compiling the device code generated by the developer.

However, compiling a source code is only conforming to the requirement, where a high level source requires compiling into executable code because the computer cannot run the high level source code.

Aho, teaches compiling in the Claims:

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As per claim 2: Aho discloses, *The method according to claim 1 further comprising compiling the source code to generate the custom UPnP control point.* A conventional compiling technique per se. A compiler is to compile source code programmed by a programmer. See Aho reference, particularly, p. 1.

As per claim 4: Aho discloses, *The method according to claim 1 wherein accessing the device-specific information further comprises receiving device-specific information from a programmer.* A conventional compiling technique, that is input data per se. See Aho reference, particularly, p. 1.

As per claim 5: Aho discloses, *The method according to claim 1 wherein generating the source code further comprises enhancing the source code for the control point.* A conventional compiling technique per se; i.e. when compiling, the optimize phase will enhance the source code. See Aho reference, particularly, p. 10, Fig. 1.9.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include, "compiling the source code", recited in such manners in Claims 2, 4-5, with the teaching "generating device code" of Microsoft because compilation is a requirement for execution.

As per Claims 8, 14: Claimed functionality is corresponding to claim 2. See rationale addressed in the rejection of Claims 2, 4-5 above.

As per Claims 10, 17 Claimed functionality is corresponding to claim 4. See rationale addressed in the rejection of Claims 2, 4-5 above.

As per Claims 11, 18: Claimed functionality is corresponding to claim 5. See rationale addressed in the rejection of Claims 2, 4-5 above.

10. Claims 6, 12, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Microsoft Corporation, "Hosting Devices on Windows XP Using Universal Plug and Play", in view of Aho et al, "Compilers Principles, Techniques, and Tools", 1998, and further in view of Microsoft. .

Regarding limitations of Claims 6, 12, and 16, Microsoft further discloses XML descriptions that require a parser as further recited in claims 6, 12, and 16.

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It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a parser as disclosed in the Microsoft reference for conforming to the requirement.

**Conclusion**

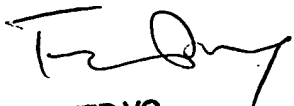
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be reached on 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708.

The facsimile number for the organization where this application or proceeding is assigned is the Central Facsimile number **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTV  
March 16, 2007

  
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PRIMARY EXAMINER  
TECHNOLOGY CENTER 2100